

## **REMARKS**

### **Overview**

This amendment accompanies a request for continued examination. The claims in the case are amended claim 1, claims 2-4 and 6-15. The only independent claim is currently amended claim 1. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

### **Claim Objection/Rejection**

The Examiner has objected to claim 1 on to formal grounds, one under 35 U.S.C. § 112, and the other as non-statutory under 35 U.S.C. § 101, relying upon the Bilski test and In Re Comiskey, 499 F.3d 1365 (Fed. Cir. 2007).

Applicant has amended claim 1 to eliminate the term or phrase "viewers data receiving apparatus" and instead has identified a television program recommender (100). There is a clear basis for this in the original specification, for example, at page 3/lines 15-21, Figure 1, page 4, and original independent claim 16.

With regard to the non-statutory objection under 35 U.S.C. § 101, the allowing steps have been eliminated and the more appropriate references to positive verb acting steps of "using" and "generating" have been substituted. Clearly, the use of the recommender profile data to generate data used to recommend programming is statutory, 35 U.S.C. § 101.

Applicant is further investigating the Schaeffer reference, but believes the amendments here made may make it moot. Further, comment will be filed upon completion of the investigation.

## Conclusion

This amendment accompanies the filing of a Request for Continued Examination (RCE).

Please charge Deposit Account No. 26-0084 the amount of \$810.00 (large) for the RCE per the attached transmittal.

This is a request to extend the period for filing a response in the above-identified application for three months from February 5, 2009 to May 5, 2009. Applicant is a large entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$1,110.00 to cover the cost of the three months extension.

No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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